UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1117
6 January 1992

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Forty-third session

SUMMARY RECORD OF THE 1117th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 November 1991, at 3 p.m.

Chairman: Mr. POCAR

later: Mr. DIMITRIJEVIC

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GE.91-18266/4078B

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Ecuador (CCPR/C/58/Add.9) (continued)

1. The CHAIRMAN invited the delegation of Ecuador to reply to the questions asked during the previous meeting on the third periodic report of his country.

2. Mr. ORTIZ CRESPO (Ecuador), in reply to Mr. Sadi, explained first of all that complaints were often lodged by Ecuadorian citizens with the Court of Constitutional Guarantees and that appropriate action was taken on them. Slightly more complaints appeared to be made to the United Nations Human Rights Committee by Ecuadorian citizens than to the Inter-American Commission on Human Rights, probably because the latter body was less well known.

3. He had already partially answered Mr. Mavrommatis' questions on the cases submitted to the ad hoc committee to investigate violations of human rights. However, he explained further that after the committee had submitted its report on the Restrepo case, the President had seen fit to promulgate decrees which extended the committee's mandate and provided for a restructuring of the entire police force. The case of the Restrepo brothers had been reported on at length in human rights publications disseminated throughout the country, and the report of the ad hoc committee had also been widely disseminated by the mass media. Lastly, he said that Mr. Mavrommatis' question on the two other cases involving Ecuador had already been answered.

4. Ms. Chanet had asked specific questions regarding emergency situations, to which Mr. Sadi had also referred. In future the Ecuadorian authorities would not fail to notify the United Nations Secretary-General whenever a state of emergency was declared, in accordance with the provisions of article 4 of the Covenant. Regarding the case of the four policemen raised by Ms. Chanet, he explained that nearly 300 complaints of human rights violations allegedly involving members of the police had been made to the district courts and the Supreme Court of the Police. The four police officers in question had already been given prison sentences. One of them had been given an eight-year prison term for causing the death of a young detainee, despite his claim that he had acted in self-defence. Another had been sentenced to six months' imprisonment for ill-treatment.

5. Ms. Chanet had also suggested that the declaration of a state of emergency after a series of national strikes might have been an over-reaction. He pointed out that on the only occasion - in May 1988 - on which the Ecuadorian authorities had adopted such a measure, the mere declaration of a state of emergency had been sufficient to deter those who had publicly stated their criminal intention to attack the trans-Ecuadorian oil pipeline. In the face of such a serious threat to the economy of the country, which derived 70 per cent of its income from the oil industry, the Government had had no choice but to declare the state of emergency. The National Congress had been notified of the measure and had endorsed it. The only persons affected by that measure had been the workers in the private oil industry.

No other action had been necessary and no one had been arrested on that occasion. Lastly, he pointed out that such emergency situations were covered by the National Security Act.

6. Mr. Medina López had already explained how the provisions of the Covenant had been incorporated into Ecuadorian legislation, and that should answer Mr. Herndl's questions. He added that, contrary to what Mr. Herndl apparently believed, the Court of Constitutional Guarantees had only advisory powers, because article 78 of the Constitution invested it with the same powers as the National Congress in the case of the declaration of a state of emergency by the executive. Furthermore, paragraph 45 of the report stated that the Court had subsequently decided that the declaration of the state of emergency in 1988 had not been justified. Mr. Medina López had already explained what sanctions could be imposed for failure to carry out the decisions of the Court of Constitutional Guarantees. The delegation of Ecuador would submit to the Secretariat a 500-page report that included scores of such cases that had been dealt with during the period 1990-1991.

7. In reply to Mr. El Shafei's query regarding the obligation of the Ecuadorian Government to ensure employment for all adults on the labour market, he said it was true that, under article 31 of the Constitution, the Government was bound to ensure the necessary conditions to enable everyone to be employed. However, it was obvious that the article was stating a goal rather than an obligation per se in a country like Ecuador, faced as it was with a serious socio-economic crisis due mainly to the external debt burden. Nevertheless, the unemployment rate in Ecuador, which stood at around 12 per cent, was not very high when compared with that of other countries. On the other hand, as in many other third world countries, underemployment remained a very serious problem and had led to the emergence of a parallel economy. Consequently, many itinerant vendors and domestics in particular had extremely difficult living conditions. However, the Ecuadorian authorities were very anxious to ensure strict compliance with international labour regulations.

8. In reply to Mr. Wennergren's question as to which rights could be derogated from under a state of emergency, he said that although it was true that the list given in article 78 (n) of the Constitution did not reproduce article 4 of the Covenant exactly, it was identical to it in spirit, and that the exercise of the fundamental rights guaranteed by the Covenant had never been suspended in Ecuador. There was nothing however to rule out the possibility, in the future, of bringing the wording of the relevant provisions of the Constitution into line with that of the Covenant.

9. Mr. Lallah had recognized the efforts made by the Ecuadorian authorities to put an end to human rights violations. The inevitable problems that continued to arise on that score were not due to the absence of a human rights culture, for unlike other Latin American countries, Ecuador had never known flagrant violations of those rights. The Ecuadorian authorities made a point of ensuring that the human rights texts were widely disseminated, in particular to the members of the police force, and that broadcasts on human rights were also made on radio and television. Positive results could already be seen.

10. Mr. Lallah had also asked whether the members of the former Criminal Investigation Service (SIC) - whose abolition had represented a major step forward - had been reincorporated into the criminal police force. In that connection, he explained that the members of the SIC who had been involved in cases of human rights violations had been dismissed from the police force. Those who had not been implicated in any abuses - and there were about 300 to 400 of them - had been reintegrated into police bodies not involved in criminal matters. It had therefore been necessary to advertise for applicants to fill the vacancies created in order to rebuild the criminal police force, and of 5,000 applicants, 200 had been selected. The Ecuadorian authorities welcomed the technical and scientific support given to them for that purpose by the United Nations and by a certain number of countries, including France. At present, three French police officers were on assignment in Ecuador to train members of the national police. In future, the criminal police would be completely independent of the executive. Lastly, as soon as the current reform had been approved by the National Congress, police superintendents would no longer be able to act as examining magistrates.

11. Mr. Medina López had already partially answered Mr. Aguilar Urbina's question concerning the remedies and opportunities for compensation afforded to victims of human rights violations. In a recent case tried by the courts, the plaintiff had been awarded damages for an affront to his honour.

12. The CHAIRMAN said that the Committee had completed its consideration of section II of the list of issues and invited members to take up the following section, which read:

> "III. Non-discrimination and equality of the sexes (arts. 2 (1), 3, 24 and 26)
>
> Please inform the Committee whether there has been any action on articles 2 (1) and 26 of the Covenant since the submission of the report, bearing in mind the Committee's general comment No. 18 (37)."

13. Mr. ORTIZ CRESPO (Ecuador) pointed out that the amendments to the Civil Code that had taken effect in August 1989, to which reference had been made in paragraph 34 of the report, sought to put an end to any form of legal discrimination between men and women. Regarding the draft amendments to the Penal Code currently being considered by the National Congress, which should serve to eliminate any shortcomings in that area, they had been drafted in cooperation with the non-governmental organizations concerned and the Parliamentary Commission for Women, Children and the Family.

14. Regarding the rights of indigenous populations, a subcommittee responsible for matters concerning legislation and a legal studies service for indigenous populations had been set up in cooperation with non-governmental organizations within the framework of the Special Commission for Indigenous Populations of the Office of the President of the Republic. Concurrently with that draft legislative amendment to assist the indigenous populations, an extensive bilingual intercultural teaching programme had been started. Up to the end of the 1970s, all teaching had been in Spanish but since 1979 a bilingual teaching experiment had been started in some 100 schools. A national bilingual

education department headed by a representative of the indigenous populations was now managing the 1,500 schools within that system and the 2,500 government-paid indigenous teachers. An amendment to the National Education Act was being contemplated, with a view to making bilingual education mandatory in areas where the indigenous populations resided.

15. Lastly, under Ecuadorian law, racial discrimination was considered an offence. Any cases of racial discrimination which might unfortunately occur in practice were punished.

16. Mr. FODOR pointed out that article 19, paragraph 5 of the Constitution which listed the possible grounds for discrimination, made no reference to national origin, which appeared in article 26 of the Covenant. The omission did not in itself give cause for concern except that, on reading article 9 of the Constitution dealing with dual nationality, a distinction could be observed between Spaniards and Ibero-Americans on the one hand and all other foreigners on the other. That distinction called for a comment.

17. Noting from paragraph 185 of the report that women and minors under 18 were forbidden "for their own protection" to sign contracts for work outside the country, he inquired whether all occupations were covered by that prohibition or whether it referred only to certain specific jobs.

18. Mr. MYULLERSON said that he shared Mr. Fodor's concern over the distinction made in the Ecuadorian Constitution between Spaniards and Ibero-Americans on the one hand and other nationalities on the other.

19. With respect to the indigenous populations, he asked how well they were integrated into the society and whether any action had been taken to assist them because, in many countries, the indigenous people were part of the disadvantaged groups.

20. Mr. MEDINA LOPEZ (Ecuador) said, in reply, that it was true that article 9 of the Constitution could be considered as restricting the right to dual nationality. However, it should be observed that the apparent distinction was based on historical considerations, since Spaniards and Ibero-Americans were the direct ancestors of the Ecuadorians. He hoped that with the increasing integration of the peoples in Ecuador a more global concept of nationality would finally prevail.

21. Regarding the possible discrimination between Ecuadorians and foreigners, the general rule was that foreigners and Ecuadorians were equal before the law; the only difference was that foreigners did not enjoy political rights or the right to vote, but that exception was general throughout the world. In the area of work, there were administrative conditions - which could not be termed discriminatory - that required foreigners who wished to engage in any activity in Ecuador to register with the Ministry of Labour. In addition, there were some restrictions on immigration, which had become necessary because of the high rate of unemployment and underemployment in the country; that was not a question of discrimination but of economic necessity.

22. Mr. ORTIZ CRESPO (Ecuador), referring to the question of foreign workers, pointed out that the regulation which stipulated that companies wishing to hire a foreigner should give proof, on the one hand, that his services were indispensable and, on the other, that there were no Ecuadorians qualified to occupy the position, was an administrative measure designed to protect the interests of Ecuadorians. Nevertheless, having regard to Ecuador's level of development compared with that of the other countries of the world, there was a considerable number of jobs for which there were no qualified Ecuadorian candidates. Consequently, during the period of Chilean dictatorship, Ecuador had taken in large numbers of Chileans, and they had encountered no difficulty in finding work, often in positions of responsibility.

23. The issue of indigenous persons was a complex one. The experts could not agree on the percentage of the population that they represented and the generally accepted figure was between 15 and 20 per cent; certain indigenous organizations claimed that the figure was as high as 40 per cent. However, many indigenous inhabitants were so integrated into urban life that they had abandoned their language, their mode of dress and their culture. Therefore, the figure of 15 or 20% was probably more accurate. The majority of the indigenous population, in other words, over 1 million people, lived in the Andes, and two communities, representing a total of 10,000 people, lived on the Pacific coast. Between 400,000 and 500,000 indigenous persons lived in the Amazon region and they were probably the most representative in Ecuador because they had been exposed to virtually no outside influences and continued to live very close to nature. All the Indians in the Andes spoke Quechua, which was the language of the Incas. For centuries the Indians had suffered considerable discrimination and savage exploitation at the hands of the Spanish conquerors, but also later at the hands of the persons of mixed race and, although today they were no longer considered inferior beings as they had been during the colonial period, they were still poorer than other Ecuadorians. Their condition had always disturbed intellectuals and defenders of human rights who had endeavoured either to find ad hoc solutions to assist small communities or to grapple with the problem in its entirety. The result had often been a thorough integration of some communities, but the most recent trend was to protect the cultural identity of the Indians and that was the policy being pursued by the present Government. In the past, helping the Indians had meant helping them to stop being Indians and to climb the social ladder to the detriment of their identity. Fortunately that trend was now a thing of the past.

24. The Government had taken positive action to help the Indians, both in the field of education, as indicated earlier, and in respect of agrarian reform. Thus, it had distributed 2 million hectares of land, 1.5 million of which had been given to the indigenous communities. Furthermore, it had considerably extended the territory of the indigenous people of the Amazon region as well as of those in the Andes. The problem of land was particularly acute for the Indians of the Andes because of land erosion and lack of irrigation. Development programmes for the general welfare of the poorest indigenous areas had also been implemented, with priority being given to irrigation projects. The execution of the projects was closely monitored. Representatives of the indigenous people and the representative of the Ministry of Social Welfare met once a week and the Government maintained an ongoing dialogue with all the indigenous organizations.

25. He thought that with that explanation he had answered all the questions on discrimination.

26. The CHAIRMAN invited the Ecuadorian delegation to answer the questions under section IV, which read:

"IV. Right to life (art. 6)

(a) What measures have been taken to investigate cases of disappearances and extrajudicial executions; to punish those found guilty; to compensate the victims; and to prevent recurrence of those acts?

(b) Please provide information on the rate of violent crimes in Ecuador and on measures taken to prevent those crimes.

(c) What measures have been taken to prevent the spread of cholera and other lethal diseases, and with what results?"

27. Mr. ORTIZ CRESPO (Ecuador) pointed out that, in the majority of the cases of disappearances and extrajudicial executions which were brought to the attention of the authorities, it was not the police forces but armed gangs that were responsible, particularly in the coastal agricultural areas where groups of land-owners were waging a murderous war over land occupancy. All cases of disappearances and extrajudicial executions, especially those reported by Amnesty International and other agencies for the protection of human rights, were investigated and the culprits, when found, were brought to justice. With regard to the disappearances for which the police forces were responsible, the Government had not only taken general measures, such as the abolition of the Criminal Investigation Service (SIC), but also specific measures after the case of the Restrepo brothers to which reference had already been made. The Government's concern about that case had led it to set up a special commission of inquiry; after receiving the commission's report on the Restrepo brothers' case it had extended the commission's mandate and instructed it to investigate all the cases that had not been clarified.

28. Mr. MEDINA LOPEZ (Ecuador) said that the question in section IV, subparagraph (a), led him to refer again to the case of the Restrepo brothers, who had disappeared in 1988 under the previous regime. In January 1990, the Government had set up a special commission of inquiry to investigate the disappearance of the two children. The commission had received two conflicting reports, one from the Colombian Police Department (the children being of Colombian nationality) and the other from the Ecuadorian Police Department. It had therefore decided on 13 July 1990 to set up an international commission of inquiry, in other words one composed of members from different countries, one of whom had been appointed by the United Nations Secretary-General. Fourteen months later, the international commission had turned in its report, which had concluded that the children had not run away, nor had they been victims of a traffic accident but that they had indeed disappeared while in the hands of the police and that the senior police authorities had tried to hush up the case. The commission had recommended that the guilty should be brought to justice, that action should be taken to prevent a recurrence of such incidents and that the family should be compensated. The Government had

already taken steps in that direction, for example by extending the mandate of the international commission, which had already received complaints of disappearances and torture.

29. Mr. ORTIZ CRESPO (Ecuador), responding to the request made in section IV, subparagraph (b), pointed out that judicial statistics were seriously lacking in Ecuador and those which existed were not reliable. The time had perhaps come for the Ecuadorian Government to request assistance from the Centre for Human Rights to establish an information centre on human rights that would include a judicial statistics service which had become indispensable. Nevertheless, the national police had some figures and it would appear that 20 per cent of the offences recorded were committed with violence; those crimes were increasing every year, probably at the rate of 8 per cent. He cautioned that he could not vouch for the accuracy of the figures he had given.

30. Cholera disease had reached Ecuador early in 1991. All sectors of the country had combined to fight that scourge. The authorities had launched a massive prevention campaign with the invaluable support of the information media, which had transmitted radio and television broadcasts, in the vernacular languages free of charge in order to inform the public about the disease and how to prevent it. The most recent figures showed that since the outbreak of the epidemic, 30,992 probable cases been recorded, 7,803 of which had been confirmed by laboratory tests. In Ecuador, 599 persons had died of the disease, whereas it had killed over 5,000 Peruvians. The reason was that Ecuador was the second country to have been affected by the epidemic and therefore had had time to organize preventive measures. A vast programme for building latrines and small drinking-water supply systems had been established, and units for monitoring and oral rehydration therapy had been set up throughout the country. The hospitals had reinforced their epidemiological teams, set up a large number of laboratories to confirm reported cases and distributed brochures on prevention and prophylactic measures. Health officers had been trained in methods to treat and diagnose the disease. At present, the epidemic was considered to have been contained, although five deaths had recently been recorded because of a relaxation of vigilance and hygiene measures. The Ecuadorian Government had very recently obtained a loan from the National Bank for the construction of 5,000 latrines in schools and colleges in the rural areas.

31. Mr. ANDO asked for information on the legislation and practice in Ecuador in respect of abortion.

32. Mr. MEDINA LOPEZ (Ecuador) said that abortion was considered a crime in his country. Ecuadorian law not only protected the individual from the moment of birth but also the unborn child. In that respect Ecuador differed from other countries in the world which were tending to decriminalize abortion.

33. Mr. WENNERGREN pointed out that other countries in Latin America had a similar policy to that of Ecuador in that regard and yet tens of thousands of abortions were performed there. He asked exactly how many women in Ecuador had been punished for having had abortions.

34. Mr. MEDINA LOPEZ (Ecuador) said that because abortion was a crime committed secretly, he could not give Mr. Wennergren an exact answer since he did not have the statistics.

35. The CHAIRMAN invited the Ecuadorian delegation to answer the questions in sections V and VI of the list of issues, which were the following:

"V. Treatment of prisoners and other detainees (arts. 7 and 10)

(a) Please provide examples of tangible results of the campaign mentioned in paragraph 52 of the report, waged to make the armed forces and the police aware of the obligation to respect the human rights of persons under arrest or investigation.

(b) Please comment on recent allegations of torture and ill-treatment of persons arrested or detained on criminal charges.

(c) How many persons, if any, have been tried and sentenced under the provisions of articles 187, 204, 205 and 206 of the Penal Code during the reporting period (para. 64 of the report)?

(d) Please provide information on the number and nature of complaints received and any action taken thereon by the Court of Constitutional Guarantees in the period under review (para. 65 of the report).

(e) Please provide information on the mandate and composition of the high-level inter-agency commission mentioned in paragraph 67 of the report. Please comment on any results achieved.

VI. Liberty and security of the person (arts. 9 and 11)

(a) With reference to persons having been held unlawfully because the time-limits laid down by law had expired (para. 74 (b) of the report), please provide information on the number of detainees involved and the length of their unlawful detention. Has provision been made to compensate the persons involved?

(b) Please provide additional information on the cases of arbitrary or unlawful detention mentioned in paragraph 74 of the report."

36. Mr. ORTIZ CRESPO (Ecuador), answering the question in section V, subparagraph (a), said that the awareness campaign had yielded very positive results. Its aim had been to disseminate the concept of human rights among citizens on the one hand, and among the armed forces and police on the other, through different courses and seminars. The Ecuadorian Human Rights Commission, which incidentally was chaired by one of the members of the Committee, Mr. Prado Vallejo, took an active part in that campaign and had among other things published a book on human rights for use by police officers. The book had been distributed to all the members of the police force and formed the basis of their human rights courses. The Latin American Association for Human Rights (ALDHU), the International Committee of the Red Cross (ICRC) and several Ecuadorian universities were also working together to disseminate

the concept of human rights throughout the country. He pointed out that a considerable effort was being made to publish basic texts on the subject in Quechua. Lastly, together with the national authorities, the prison association had organized courses for prison guards. To date nearly two thirds of them had taken a course on how to treat detainees with respect for their dignity.

37. Mr. MEDINA LOPEZ (Ecuador) said that the Ministry of Foreign Affairs had set up a Department of Human Rights and Refugees which organized seminars, cultural events, roundtables and other activities involving human rights, refugees and issues of humanitarian law and international law.

38. Mr. ORTIZ CRESPO (Ecuador), replying to the question in section V (b), pointed out that even an organization which was as critical of the Government as the prison association had recognized the considerable efforts made by the authorities to improve the situation in the prisons. Some prisons had been renovated or expanded, and new prison institutions had been built in 17 provinces.

39. Regarding the allegations of torture and ill-treatment, the authorities had duly examined every case submitted to them, especially by the Special Rapporteur of the Commission on Human Rights on questions relating to torture, Amnesty International and other non-governmental organizations. He also recalled that the Criminal Investigation Service (SIC) had been disbanded. The case of the Restrepo brothers had profoundly shaken public opinion, and the authorities were prepared to do everything they could to ensure that incidents of that kind did not recur and that generally detainees were no longer subjected to ill-treatment and torture.

40. In response to the questions in subparagraph (c), he said that 270 cases of police officers who had allegedly tortured detainees had been referred to the competent authorities and mentioned a report by the judicial authorities on cases of ill-treatment or torture inflicted on detainees. Some of those cases had perhaps not led to any charges, but the Government was sparing no effort to ensure that the guilty were recognized as such and punished. A new department had also been set up under the Ministry of Justice and had made a study of the complaints of abuse of powers and corruption by members of the police force, which should lead to administrative penalties.

41. In reply to the question in subparagraph (d), he referred the Committee to a report of the Court of Constitutional Guarantees dating from 1990, in which the complaints in question were recorded and a copy of which had been placed at the disposal of the Committee. Some 100 complaints were usually submitted to the Court each year.

42. In reply to the questions in subparagraph (e), he pointed out that a high-level tripartite commission consisting of representatives of the Government, the Church and the Latin American Association for Human Rights (ALDHU) had been instructed to investigate the disappearance of the Restrepo brothers. The Commission had subsequently been converted into an international commission that had submitted a report, the conclusions of which had already been made known to the Committee.

43. Regarding the questions in section VI, subparagraph (a), he pointed out that it was very difficult to answer them for lack of legal statistics. It was highly likely that several hundred persons were being or had been detained for over 24 hours, which was the maximum legal duration of police custody. In the past, there had been countless cases of arbitrary and unduly prolonged detention. He emphasized that a new department to assist destitute persons had been set up within the framework of the Ministry of Justice, in order to put an end to the abuses in that area. That department, which provided legal assistance to poor people, already had some achievements to its credit, for example, the fact that there had been a sharp decline in the number of persons detained without charge. He concluded his remarks on the subject by saying that the restriction imposed on police custody was a constitutional principle which the authorities were endeavouring to translate into reality.

44. The compensation of illegally detained persons was also a constitutional principle, but there were still no legislative provisions to give it effect. The authorities were however endeavouring to establish a compensation procedure.

45. Mr. MEDINA LOPEZ (Ecuador) said that there were two main types of remedies to combat arbitrary detention: constitutional habeas corpus, which protected the fundamental rights of the individual, and judicial habeas corpus, which enabled a detainee to challenge the legality of his detention in a higher court.

46. Mr. ORTIZ CRESPO (Ecuador) added that the reform under way would relieve the commissioners of the duties of examining magistrate and in future make it possible to prevent arbitrary or illegal detentions on the basis of an administrative decision or political considerations and to permit the full application of the criteria of respect for liberty and security of person, as set forth in the Covenant.

47. Mr. Dimitrijevic took the Chair.

48. The CHAIRMAN invited the members of the Committee to ask questions and make comments on the replies of the Ecuadorian delegation.

49. Mr. SADI said he thought that the third periodic report (CCPR/C/58/Add.9) gave a false picture of the Ecuadorian authorities' policy and practice in respect of the application of certain articles of the Covenant. With regard to article 7, he pointed out that in paragraph 65 of the report (CCPR/C/58/Add.9), although it was established that torture and ill-treatment occurred, the Court of Constitutional Guarantees was said to be urging the competent authorities to put an end to such practices. In the light of the information provided orally by the Ecuadorian delegation, the terms used were clearly too weak. The Ecuadorian authorities had obviously taken measures to put an end to torture and inhuman treatment and the following paragraph stated that agents guilty of excesses and ill-treatment had been dismissed. By the same token, the information provided by the Ecuadorian delegation indicated that the authorites had not only dismissed the culprits, but had also ordered proceedings to be taken against them. Similarly, he presumed that the mandate of the inter-agency commission referred to in paragraph 67 did not consist

only of carrying out investigations. He was pleased to have heard the Ecuadorian delegation confirm that the authorities were in fact prosecuting and punishing the guilty.

50. Concerning article 9 of the Covenant, paragraph 74 (b) of the report stated that a suspect could be held incommunicado during the first 24 hours of detention. If that measure was still in effect, there was cause for concern, because the period during which the detainee was in police custody was precisely when he should be able to contact a lawyer and his family. Incommunicado detention was contrary to the spirit and letter of the Covenant. He asked for clarification as to whether the information given on that matter in the report was really true. Still on the subject of paragraph 74 (b), he observed that no reference had been made to the provisions of the Covenant whereby, if a person was too poor to pay for his defence, the State party should provide him with legal assistance free of charge. Did the Ecuadorian authorities respect that obligation? He thought that the omission was probably an oversight which would certainly be corrected orally by the Ecuadorian delegation.

51. Mr. EL SHAFEI asked whether the Labour Code, which prohibited forced or compulsory labour, was applicable to the armed forces.

52. Moreover, according to an ILO report concerning the application of certain of its conventions in Ecuador, the armed forces undertook activities within the framework of development programmes involving both the military and civilians, which could be assimilated to forced labour. He asked for clarification of that point.

53. Mr. MAVROMMATIS said that the multiplicity of information provided by the Ecuadorian delegation demonstrated the political determination of the authorities to combat the last vestiges of torture. However, the essential point was to translate intentions into action. The authorities had taken commendable steps in the case of the Restrepo brothers, and had declared that the SIC would be disbanded, but they should not stop at that just when they were making such good progress. They should ensure that there would never be another Restrepo case or another SIC in Ecuador. Several measures had already been taken to that effect: frequent visits to detainees, ensuring that doctors were assigned to detention centres, thorough investigation of complaints, including medical examinations of the detainees in question, etc.

54. Furthermore, the authorities should act more cautiously in combating drug trafficking and in the legal proceedings that it involved. In particular, the greatest care should be exercised in cases which might lead to extradition or expulsion and in cases of collaboration with foreign police forces. He was however convinced that in future the Ecuadorian Government would not fail to take all necessary precautions in cases of that kind.

55. Mr. ANDO requested further information on the regulations governing work by prisoners. In particular, he would like to know whether the imposition of compulsory labour influenced the application of the principle of individual penalties and whether any distinction was made in that regard between adults and juvenile delinquents.

56. Mr. ORTIZ CRESPO (Ecuador), replying to the questions in sections V and VI of the list, said that the Court of Constitutional Guarantees did not "urge" the competent authorities, as stated in paragraph 65 of the report, but rather that it made recommendations to them, which they had a moral duty to apply. Much still remained to be done in Ecuador to ensure the complete independence of the Court, especially in cases of conflict between the executive and the National Congress, but a process to rectify that had already been started.

57. Mr. MEDINA LOPEZ (Ecuador) said that the National Constitution provided that no one could be detained for more than 24 hours without being brought before a judge. The law provided that the detainee could contact persons of his choice, in particular his lawyer, to defend him. Admittedly, abuses could take place, but the fact was that they were becoming fewer and fewer and human rights were being increasingly respected in that area.

58. Mr. ORTIZ CRESPO (Ecuador), replying to Mr. El Shafei's question, said that the members of the armed forces were by no means subjected to forced labour, but that, traditionally, the army had always cooperated in the economic and social development of the country, for example by contributing to the building of roads, bridges and community facilities, thereby helping to strengthen the country's infrastructure. Consequently, while it was not subjected to any pressures whatever, the army played a key role in the economic and cultural development of the country.

59. Mr. MEDINA LOPEZ (Ecuador) added that some sectors of the Ecuadorian armed forces had thus become veritable construction enterprises. However, the Labour Code did not apply to the members of the armed forces and they were not considered as civilian employees but were governed by strictly military laws.

60. Mr. ORTIZ CRESPO (Ecuador) said that he agreed with Mr. Mavrommatis that the struggle for the respect of human rights should never cease and that every effort should be made to end any abuses. Thus, for example, the Ecuadorian Government had signed agreements with the country's universities permitting students of social sciences or law to have access to the penal institutions and authorizing them to attend interrogations of detainees in order to verify that the latter were not subjected to torture or to other forms of ill-treatment.

61. Labour was not compulsory in Ecuadorian prisons. The activities available to the detainees were extremely varied (handicrafts, woodwork, metalwork, etc.) and were adapted to the skills of each individual, who was paid while at the same time receiving training to fit him for reintegration into society. The greatest success so far had perhaps been an experimental farm that had been set up near the Medellín prison, which provided much of the food for the detainees and was to be expanded to some 150 hectares. Similarly, the annual exhibition of handicrafts made by women prisoners had always been a great success.

62. Special centres for detainees under the semi-open system had been set up experimentally to facilitate the readaptation of detainees to society. Two prisons were currently running such a system and under it an individual prisoner's period of detention could be reduced by almost half if his behaviour was good. Minors could also be helped under that special system.

63. The CHAIRMAN said that the Ecuadorian delegation had answered the questions under sections V and VI of the list and invited it to answer the questions in section VII, which were the following:

"VII. Right to a fair trial (art. 14)

(a) Please elaborate on the efforts made by the Government to abide by the principles embodied in article 14 of the Covenant and to put them into practice (para. 102 of the report).

(b) Please provide additional information on the guarantees for defendants and their counsel and the availability of free legal services (para. 103 of the report)".

64. Mr. ORTIZ CRESPO (Ecuador) said that the provisions of Ecuadorian law guaranteeing respect for the principles embodied in article 14 of the Covenant had been described in detail in the second periodic report of Ecuador. The most important bill on the subject was still under consideration by the National Congress and its implementation would help to solve many of the difficulties facing the judiciary. It consisted of appointing indigenous justices of the peace and justices of the peace who were given special responsibility for matters affecting inhabitants of the poor, disadvantaged urban areas. The traditional discrimination against the poor and indigenous populations hampered the course of justice; consequently, those justices of the peace would be specially responsible for cases involving those sectors of society. The Code of Civil Procedure and the Code of Penal Procedure also provided that persons who did not speak Spanish could be assisted by an interpreter. In that regard, indigenous women, who usually had less contact with the outside world, were at a much greater disadvantage than the men. Therefore the Government had undertaken large-scale publication of handbooks on citizens' rights in the local languages.

65. With regard to the guarantee of the rights of the defendant, he pointed out that the Government had established new regulations according to which detainees were entitled to free legal consultations and that their legal counsels could go directly to the prison institutions to consult with them and thus facilitate the settlement of cases.

66. Mr. MYULLERSON said he gathered from one Amnesty International report that there were police courts in Ecuador which had exclusive jurisdiction and were allegedly responsible for the torture and death of persons in detention. He wished to know whether that kind of court really existed in Ecuador and, if so, what was its role.

67. Mr. MAVROMMATIS, referring to paragraph 27 of the report, asked what was meant by "acts" involving an obligation to testify against oneself or one's relatives, what links of kinship were meant by "one's relatives" and what was the "punishment that is injurious to a prisoner's human dignity". He also inquired what procedure was followed in appointing the members of the National Congress and how the impartiality of the judiciary was guaranteed.

68. Mr. AGUILAR URBINA associated himself with the questions asked by Mr. Myullerson and Mr. Mavrommatis.

69. Mr. ORTIZ CRESPO (Ecuador) said that the armed forces alone had special courts responsible for passing sentence on offences committed by the military in the exercise of their duties. According to the Constitution, it was expressly forbidden to compel a person to testify against himself. Testimony obtained illegally was not valid and any judges who compelled a person to make such statements were liable to the penalties provided for in the Penal Code. Lastly, "one's relatives" were considered by the Penal Code as being persons having a direct, first-degree link of kinship.

70. Mr. MEDINA LOPEZ (Ecuador) said that members of parliament put themselves forward as candidates to the National Congress and the members were elected in a plenary session of the Congress. The system was totally independent of the judicial system and was in fact completely democratic.

71. The CHAIRMAN said that the Committee had completed its consideration of section VII of the list of issues to be taken up in connection with the consideration of the third periodic report of Ecuador.

The meeting rose at 6.05 p.m.